

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 9 of the Lincoln Municipal Code relating to
2 Public Peace and Welfare to add a new Chapter 9.30 entitled "Donation Boxes" by adding Section
3 9.30.010 to set forth definitions used in this chapter; adding Section 9.30.020 to set forth the
4 Legislative Intent of the Council; adding Section 9.30.030 to prohibit Donation Boxes for other than
5 charitable purposes; adding Section 9.30.040 to provide for issuance of Donation Box Permits;
6 adding Section 9.30.050 to provide for enforcement of this chapter; adding Section 9.30.060 to
7 provide exemptions for donation boxes on property owned by a charitable organization; and adding
8 Section 9.30.070 to provide for severability of the provisions of this chapter.

9 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

10 Section 1. That Title 9 of the Lincoln Municipal Code be amended by adding a new
11 Section 9.30.010 to read as follows:

12 **9.30.010 Definitions.**

13 As used in this chapter:

14 "Charitable organization" shall mean a benevolent, educational, philanthropic, humane,
15 patriotic, religious, or eleemosynary organization of persons organized for any lawful purpose or
16 purposes not involving pecuniary profit or gain for its officers or members that has received a
17 determination that it is exempt under Section 501(c)(3) of the federal "Internal Revenue Code of
18 1986", as amended.

19 "Donation box" shall mean a receptacle placed by a person for accepting donations of
20 unwanted household items, clothing or other items of personal property.

1 "Person" shall mean an individual, organization, group, association, partnership, corporation,
2 limited liability company, trust, any other legal entity, or any combination of legal entities.

3 Section 2. That Title 9 of the Lincoln Municipal Code be amended by adding a new
4 Section 9.30.020 to read as follows:

5 **9.30.20 Legislative Intent.**

6 (a) It has come to the attention of the council that commercial enterprises are soliciting
7 donations of clothing, household items, or other items of personal property to donation boxes that
8 appear to be for charitable purposes, but that such commercial enterprises may thereafter be selling
9 such items for profit with little or no benefit to any charitable organization. Maintenance of such
10 donation boxes by commercial enterprises have the potential to deceive the public into believing that
11 they are making contributions to charity, cause taxpayers to attempt to claim improper tax
12 deductions on state and federal income tax returns in the mistaken belief that they have made
13 deductions to a charitable organization, and divert donations from charitable organizations within
14 the city that perform valuable services for the residents of Lincoln.

15 (b) It is the purpose of this chapter to prevent deception and confusion of the public,
16 prevent mistaken attempts to claim tax deductions for charitable contributions, and to support the
17 public purposes and benefits of legitimate charitable organizations by prohibiting commercial
18 enterprises from soliciting donations of household items, clothing or other items of personal
19 property by the furnishing of commercial donation boxes on commercial properties, which result in
20 gifts to such commercial enterprises that do not benefit charitable organizations or purposes.

21 Section 3. That Title 9 of the Lincoln Municipal Code be amended by adding a new
22 Section 9.30.030 to read as follows:

1 **9.30.030 Prohibitions.**

2 (a) No person shall place or hold out to the public any donation box for people to drop
3 off articles of unwanted household items, clothing or other items of personal property, unless the
4 proceeds from the sale of such items shall be utilized for charitable purposes.

5 (b) No person shall place or maintain any donation box on any premises open to the
6 public except when issued a permit by the City Clerk.

7 (c) The owner, lessee, or other person in control of the property where a donation box
8 is being maintained and the person that owns, maintains, or operates a donation box in violation of
9 this chapter shall be jointly and severally liable for any violation of this section.

10 Section 4. That Title 9 of the Lincoln Municipal Code be amended by adding a new
11 Section 9.30.040 to read as follows:

12 **9.30.040 Permits.**

13 (a) Any person wishing to place or utilize a donation box within the limits of the City of
14 Lincoln in a place that is open to the public must obtain a Donation Box Permit from the City Clerk.

15 (b) Only entities or organizations that have a tax status under Section 501(c) (3) of the
16 Internal Revenue Code, as amended, may apply for and obtain a permit. Proof of such tax status and
17 a letter of authority or permission from the owner of the real property upon which the donation box
18 is to be located must accompany an application for a permit.

19 (c) A donation box that is subject to the provisions of this chapter must have clearly
20 identified, in writing, on its face the charitable organization that is maintaining the donation box. A
21 phone number and address for such entity must also be written on the donation box.

22 (d) There shall be no fee for an application or permit to place a donation box subject to
23 the provisions of this chapter at any location.

1 Section 5. That Title 9 of the Lincoln Municipal Code be amended by adding a new
2 Section 9.30.050 to read as follows:

3 **9.30.50 Enforcement; Penalties; Injunction.**

4 (a) The owner, lessee, or other person in control of the property where a donation box
5 is being maintained in violation of this chapter and the person or entity which owns, maintains, or
6 operates a donation box in violation of this chapter shall each be responsible for any violation of this
7 chapter.

8 (b) Code enforcement officers of the Department of Building and Safety and the Lincoln
9 Police Department are hereby authorized to issue citations for any violations of this chapter.

10 (c) Any violation of this chapter shall be a misdemeanor, and any person convicted
11 thereof shall be punished by imprisonment in the county jail for a period not to exceed six months,
12 or by a fine of not to exceed \$500.00, recoverable with costs, or both. Each day that a violation of
13 this chapter continues shall constitute a separate and distinct offense and shall be punishable as such.

14 (d) Notwithstanding the foregoing, the City Attorney may institute an injunction action
15 in the name of the City to assure compliance with the terms of this chapter.

16 Section 6. That Title 9 of the Lincoln Municipal Code be amended by adding a new
17 Section 9.30.060 to read as follows:

18 **9.30.060 Exemption.**

19 This chapter shall not apply to any donation box that is maintained by and located on
20 premises that are owned or leased by any charitable organization.

21 Section 7. That Title 9 of the Lincoln Municipal Code be amended by adding a new
22 Section 9.30.070 to read as follows:

1 **9.30.070 Severability.**

2 In the event that any provision of this chapter shall be held to be unenforceable by a court of
3 competent jurisdiction, then only that specific provision shall not be enforced, and all other sections
4 and provisions shall remain in full force and effect.

5 Section 8. That Sections 1 through 7 of this ordinance shall be codified in the Lincoln
6 Municipal Code as Chapter 9.30 entitled Donation Boxes.

7 Section 9. That this ordinance shall take effect and be in force from and after passage
8 and publication in one issue of a daily or weekly newspaper of general circulation in the City,
9 according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2013:

Mayor